

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

G.O AMERICA SHIPPING COMPANY, INC., a corporation registered in the Republic of the Marshall Islands,	)	IN ADMIRALTY
	)	Case No. 2:17-cv-00912-RSM
Plaintiff,	)	<b>EMERGENCY MOTION TO VACATE</b>
	)	<b>WRIT OF ATTACHMENT</b>
vs.	)	
CHINA COSCO SHIPPING CORPORATION LIMITED, a company registered in the People Republic of China,	)	
COSCO SHIPPING LINES CO, Ltd. a subsidiary of CHINA COSCO SHIPPING CORPORATION LIMITED,	)	
CHINA SHIPPING INDUSTRY, (Shanghai Changxing) Co. Ltd., a subsidiary of CHINA COSCO SHIPPING CORPORATION LIMITED	)	
and	)	
COSCO SHIPPING HEAVY INDUSTRY CO., subsidiaries of CHINA COSCO SHIPPING CORPORATION LIMITED,	)	
Defendants.	)	

**I. EMERGENCY MOTION TO VACATE WRIT OF ATTACHMENT**

Specially appearing Claimant COSCO Atlantic Shipping Ltd. seeks an immediate hearing on this emergency motion to vacate the Supplemental Admiralty Rule B attachment of the M/V COSCO TAICANG, for the following reasons.

Plaintiff purportedly asserted a maritime claim against various named Defendants in its Amended Verified Complaint. The claim appears to relate to repairs to Plaintiff's ship, the M/V G.O. AMERICA, at a shipyard in China. The shipyard, Plaintiff alleges, was a subsidiary of "China Shipping company (sic) Co., Ltd." (Dkt 6 at 2:19-20)

Plaintiff further contends that the shipyard's parent company merged with another Chinese entity called Cosco Shipping Group Co. Ltd. (Dkt 6 at 2:21-22) That merged entity, Plaintiff contends is China COSCO Shipping Corporation Limited. (Dkt 6 at 2:22-23)

**Nowhere in Plaintiff's Amended Verified Complaint does Plaintiff identify the owner of the M/V COSCO TAICANG or allege any claim against the owner of the M/V COSCO TAICANG.**

In Plaintiff's Renewed Motion and Declaration for Rule B Attachment (Dkt 7), Plaintiff alleges that a single internet web site of unknown origin identifies Defendant COSCO Shipping Lines Co., Ltd. as the "owner" of three containerships that will call in this judicial district in the next 30 days. (Dkt 7 at 3-6)(citing [www.vesseltracking.net/ship](http://www.vesseltracking.net/ship)). That is the sole evidence Plaintiff relies upon to identify the owner of the property it seized in an *ex parte* proceeding under Supplemental Admiralty Rule B.

From there Plaintiff alleges that that Defendant is a subsidiary of the merged entity, Defendant China COSCO Shipping Corporation, Co. Ltd. And because the shipyard against which Plaintiff has a claim is also alleged to be a subsidiary of the same parent company (Defendant China COSCO Shipping Corporation, Co. Ltd.), Plaintiff makes the quantum leap that *any* property owned by *any* other subsidiary of China COSCO Shipping Corporation, Co. Ltd., is susceptible to Rule B attachment on a claim against a wholly separate and completely

1 unrelated subsidiary of the ultimate parent company. Neither law nor logic supports that  
2 conclusion.

3 The M/V COSCO TAICANG is owned by specially appearing Claimant COSCO  
4 Atlantic Shipping Ltd. Defendant COSCO Shipping Lines Co., Ltd. is the manager and  
5 commercial operator of the ship. This is very common in how maritime companies are  
6 structured. Each vessel is owned by a separate entity, and a fleet of vessels are managed and  
7 operated by a single entity for commercial purposes.

8 Notably, Defendant COSCO Shipping Lines Co., Ltd., manages and operates ships that  
9 call in this judicial district on a regular basis. That's why three ships that they manage and  
10 operate will be in this district within the next 30 days. Other COSCO-related entities are  
11 registered with the Washington Secretary of State to do business in this district and perform  
12 various services on behalf of that Defendant. (See, Washington Secretary of State's  
13 Corporations web site, listing COSCO Shipping (USA) Inc., COSCO Shipping Lines (North  
14 America) Inc., and COSCO Shipping Terminals (USA) LLC.) There should be little doubt that  
15 Defendant COSCO Shipping Lines Co., Ltd., and its parent company, Defendant China COSCO  
16 Shipping Corporation Limited, have more than sufficient contacts with this district to support the  
17 court's exercise of personal jurisdiction over them.

## 18 19 **II. LEGAL ARGUMENT**

20 The requirements for a Rule B writ of attachment to issue are well established: (1) a valid  
21 prima facie admiralty claim; (2) defendant cannot be found in the district; (3) property of the  
22 defendant can be found within the district; and (4) there is no statutory or maritime law bar to the  
23 attachment. *Equitorial Marine Fuel Mgmt. Servs. Pte Ltd. v. MISC Berhad*, 591 F.3d 1208, 1210  
24 (9th Cir. 2010).

25 Plaintiff alleges that it has a maritime claim against a shipyard in China, Defendant  
26 "China Shipping Industry (Shanghai Changxing) Co. Ltd." (sic)(Dkt 6 at 3:8-9)

27 Plaintiff contends that Defendant China COSCO Shipping Corporation is the parent

1 company of the other three defendants. (Dkt 6 at 25-29) Plaintiff evidently takes the position  
2 that a claim against a subsidiary of an ultimate parent corporation allows the claimant to assert an  
3 *ex parte* Rule B action against, and seize any piece of property belonging to, every other  
4 subsidiary of the ultimate parent corporation. There is no law supporting Plaintiff's position on  
5 this issue.

6 As noted, the ship that Plaintiff attached, the M/V COSCO TAICANG, is owned by  
7 COSCO Atlantic Shipping Ltd. Plaintiff would have known that if it had done even modest due  
8 diligence on the issue and not relied upon a dubious website that provides no information about  
9 the basis of the information provided. Since Plaintiff does not have a maritime claim against the  
10 owner of the ship, Plaintiff cannot attach the ship under Rule B. That is black letter maritime  
11 law.

12 To the extent the M/V COSCO TAICANG calls regularly in this district, then the ship  
13 and its owner would have sufficient contacts with this district to support the court's exercise of  
14 personal jurisdiction over the owner. This too would preclude attachment of the ship under  
15 Rule B.

16 Moreover, at least two of the defendants similarly have more than ample contacts with  
17 this district to support this court's exercise of personal jurisdiction over them, and thus  
18 precluding issuance of a Rule B writ of attachment against their property (assuming they actually  
19 own the property that's here). Defendant China COSCO Shipping Corporation Limited is the  
20 ultimate parent company of a large number of entities involved in everything from shipping to  
21 shipyards to container owning to asset management to logistics to vessel manning, among  
22 numerous others. (Dkt 6-4 at pages 2-3 of 4) To the extent they own the various companies that  
23 own the ships that regularly call in western Washington, they are plainly present within the  
24 district for jurisdictional purposes. Moreover, they are the ultimate parent company of the  
25 various COSCO-related entities registered to do business in this state. The parent company has  
26 continuous and systematic contacts with western Washington and thus is present here.

27 Defendant COSCO Shipping Lines Co., Ltd., similarly manages and operates various  
28

1 container ships that call here on a regular liner service. That undeniably provides sufficient  
2 contacts for the court to exercise personal jurisdiction over that defendant, precluding application  
3 of Rule B.

4 Finally, there would be no prejudice to Plaintiff to release the M/V COSCO  
5 TAICANG. As Plaintiff alleges, there will be other COSCO-related ships arriving in the next  
6 30 days. In fact there will be COSCO-related ships arriving several times per month for the  
7 indefinite future. Instead of tying up a piece of property worth tens of millions of dollars, not to  
8 mention the cargo on board that is likely worth multiples of the value of the ship itself, the  
9 parties can sort out the legal issues on a more reasonable schedule and if Plaintiff is entitled to a  
10 Rule B writ of attachment, then they can seize the next COSCO-related ship to call here,  
11 although that will not be the case under the circumstances of Plaintiff's claim.

### 12 13 **III. CONCLUSION**

14 Plaintiff alleges a claim against a shipyard that is a subsidiary of a parent company that is  
15 also the parent to a separate, distinct and unrelated international containership company. Based  
16 on nothing other than the fact that the containership company is also a subsidiary of the common  
17 parent, Plaintiff makes various *ex parte* representations to the court claiming that it is entitled to  
18 a Rule B writ of attachment to seize a ship that has nothing whatsoever to do with the shipyard  
19 allegedly responsible for Plaintiff's losses. That is not how Rule B works. The law does not  
20 allow attachment in these circumstances.

21 The court should vacate the Process of Attachment immediately and direct the U.S.  
22 Marshal to release the ship forthwith. Specially appearing Claimant COSCO Atlantic Shipping  
23 Ltd. reserves the right to bring a counterclaim against Plaintiff for wrongful attachment.

24 ///

25 ///

26 ///

27 ///

1 DATED this 30th day of June, 2017.

2  
3 /s/ Philip R. Lempriere

4 Philip R. Lempriere, WSBA No. 20304  
5 Attorneys for Specially Appearing Claimant  
6 COSCO Atlantic Shipping Ltd.,  
7 Keesal, Young & Logan  
8 1301 Fifth Avenue, Suite 3100  
9 Seattle, Washington 98101  
10 Telephone: (206) 622-3790  
11 Facsimile: (206) 343-9529  
12 E mail: philip.lempriere@kyl.com  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I hereby certify that on the date given below, I electronically filed the foregoing  
**EMERGENCY MOTION TO VACATE WRIT OF ATTACHMENT** with the Clerk of the  
Court using the CM/ECF system which will send electronic notification of such filing to the  
following persons:

Edward C. Chung, Esq.  
Chung, Malhas & Mantel, PLLC  
1511 Third Avenue, Suite 1088  
Seattle, WA 98101  
Attorneys for Plaintiff G.O America Shipping Company, Inc.

DATED this 30th day of June, 2017, at Seattle, Washington.

  
Andrew Fomai